

he would seek to change and amend, the Act to provide for the crossing of railways by streets, drains, water-mains, &c. Now, the Legislature of Ontario, governed as it is by a body of men educated in municipal councils, felt it was not safe in all cases to entrust those township councils with so important a matter as the right to penetrate a railway embankment wherever they think proper, and they provide that the Commissioner of Public Works shall be the tribunal to stand just in the position that the Railway Committee of the Privy Council stand with reference to those railway Acts that are under the purview of the Parliament of Canada. That Act gives large powers for the making of ditches and crossing of railways, but it directs that unless the railway company and the municipality agree that the special matter shall be referred to the Commissioner of Public Works. He is the authority. I do think it would be carrying the principle entirely too far to change the management and control and sovereignty, over so important a matter as that, from the Railway Committee of the Privy Council to municipal councils. It is very well known that in those cases the Railway Committee properly favor the municipality. The expense, as rule, is placed upon the railway company. There are no costs attending the application to the Railway Committee. The application may be made by letter. The Railway Committee do not require a municipal council to be represented in any way before them. They take cognizance of all documents that come before them, and send their own official to the spot in dispute, without any expense to the municipality, and then they decide fairly and equitably what proportion of the expense shall be borne by the company and what by the municipality. Nothing can be fairer than that. The hon. gentleman may have some grievance in his own locality, but I think before seeking so radical a change, one in which the interest of the public is so largely involved, he ought to endeavor to meet the case by the mode pointed out by the statute. I am not myself aware, although I have had considerable experience in connection with railway litigation, of a single case that has been necessary to go

to the council with, because the railway companies ought and do endeavor to meet the wishes of municipalities. Sometimes an unreasonable demand will be made where an element of danger will be created, and there it is very properly resisted. It is for the railway to say whether the work ought to be carried on in the way the municipality desires or not. I wish to call the attention of the Government to the subject matter of this Bill, as it is one under their control, and ought not to be introduced by any private member.

HON. MR. KAULBACH—I think there is something in the last clause of this Bill which says that the mode of arbitration and procedure shall be the same as that under the Railway Act; therefore, as far as that goes, the railway company would not be put to any inconvenience when the same rule is applied as in any ordinary case, and an order is given by the Railway Committee of the Privy Council. It seems to me to be pretty hard for gentlemen who want to have their lands drained to be at the expense, delay and trouble of applying to the Railway Committee of the Privy Council. There should be no danger. The public should be protected, and when we consider that by this Act it is not intended that the municipality shall touch the property of the railway—

HON. MR. SCOTT—Yes; of course, it is crossing the railway.

HON. MR. KAULBACH—But the work is to be done by the railway company; the parties wishing to drain cannot touch the railway property at all; culverts, ditches and drains must be made entirely by the company, and they certainly can make all those improvements required to drain a man's land without danger to life or to property. Looking at the Bill now, I see that one of the great objections raised by my hon. friend has failed, as it is entirely in the hands of the railway company to do the work, and the owners of the soil cannot interfere with the road-bed at all. For men who wish to have their land drained, which is a very important matter in this country, to be obliged in all instances to go to the Railway Committee of the Privy Council is

HON. MR. SCOTT.